

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 88-627-C - ORDER NO. 93-36  
JANUARY 14, 1993

IN RE: Application of Business Telecom,        )  
      Inc. for Authority to Operate as        ) CEASE AND  
      a Reseller of Interexchange        ) DESIST ORDER  
      Telecommunications Services within    )  
      the State of South Carolina.        )

This matter comes before the Public Service Commission of South Carolina (the Commission) on the December 23, 1992 Petition for Preliminary Injunction filed by the Intervenor, South Carolina Telephone Coalition (SCTC). SCTC alleges in its Petition that Business Telecom, Inc. (BTI) has decided to allow or has instructed its customers to use a 1-700 dialing plan. SCTC alleges that this arrangement has resulted in BTI's customers circumventing the local exchange company's screening of intraLATA calls associated with Feature Group D Access. Accordingly, SCTC alleges that it is losing revenue because of BTI's 1-700 dialing arrangements and has requested in its Petition that a preliminary injunction be issued to enjoin BTI from further instructing or allowing any new customers the use of 1-700 dialing arrangements.

A hearing was held on January 5, 1993, at 11:15 a.m. in the Offices of the Commission, and the Honorable Henry G. Yonce, presided. At that time oral arguments were heard on SCTC's

Petition. SCTC was represented by M. John Bowen, Jr., Esquire; BTI was represented by Robert D. Coble, Esquire, and Richard Rinders, Esquire. The Consumer Advocate for the State of South Carolina (the Consumer Advocate) was represented by Carl F. McIntosh, Esquire. The Intervenor, Southern Bell Telephone and Telegraph Company (Southern Bell) was represented by Caroline N. Watson, Esquire; and the Commission Staff was represented by F. David Butler, Staff Counsel.

Counsel for SCTC argued the matters asserted in its Petition, but also stated that a preliminary injunction was not necessarily the only appropriate remedy, but that relief of some kind in the matter was reasonable. Robert D. Coble, Esquire, argued for BTI and handed up a memorandum in opposition to the Petition, along with the affidavit of Richard E. Brown. After brief statements by Carl McIntosh and Caroline N. Watson, F. David Butler, Staff Counsel, handed up two affidavits. The purpose of the affidavits was to authenticate the April 13, 1992 letter of Marsha A. Ward, General Counsel to Richard E. Brown, Controller of BTI and the November 12, 1992 letter of James M. McDaniel, Chief of the Commission's Telecommunication Department to Robert D. Coble, Esquire, attorney for BTI. Butler recounted some of the history of the matter. The letter of Marsha Ward to Richard E. Brown stated that it had come to the Commission's attention that some interexchange carriers' or resellers' customers may be using 1-700 access to complete calls which originate and terminate within the same LATA, and that the Commission would monitor the use of the

1-700 access code to determine if BTI's customers were using this access to complete intraLATA calls. The letter of November 13, 1992 from James M. McDaniel to Robert D. Coble stated that it appeared that BTI had decided to allow or had instructed its customers to use 1-700 access and that the use of this access arrangement has resulted in customers circumventing the local exchange company's screening of intraLATA calls associated with the Feature Group D access. The letter went on to ask BTI to block 1-700 access at its switch in order to prevent unauthorized use of the 1-700 dialing arrangement. BTI declined to do so, but instead informed the Commission Staff that it intended to file a declaratory pleading requesting that the Commission declare that its orders authorizing BTI to do business allowed it to use a 1-700 access.

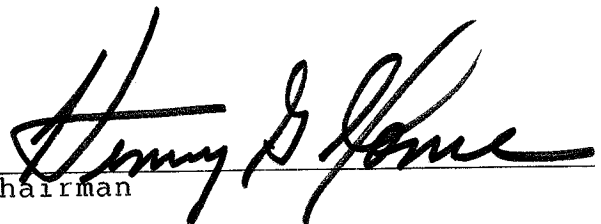
The Commission has considered this matter carefully, along with the oral arguments of Counsel and the Petitions and Affidavits submitted to this Commission. The Commission notes that a full hearing on the merits is scheduled for February 17, 1993. However, the Commission believes that while the preliminary injunction may not be appropriate under the circumstances as argued by BTI, a cease and desist order is appropriate. There are major allegations of the improper use of the 1-700 dialing arrangements in this case. The Commission believes that if, indeed, the Company is encouraging or instructing its new customers to use this 1-700 dialing arrangement, that the Company should cease and desist from doing so. The Commission believes that a cease and desist order is most appropriate in the case at bar.

IT IS THEREFORE ORDERED THAT:

1. That should BTI be encouraging or instructing its new customers to employ the 1-700 dialing arrangement, it shall hereby cease and desist from doing so.

2. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Deputy Executive Director

(SEAL)